

CITY-COUNTY GENERAL ORDINANCE NO. 3, 2008  
Proposal No. 21, 2008

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code of the Consolidated City and County" to add "Religious Use" as a permitted use in the commercial zoning district; to make the definition for "Religious Use" uniform throughout the Revised Code and to make related amendments.

WHEREAS, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000cc, et seq. states that no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution; and

WHEREAS, to ensure compliance with the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, et seq., and to ensure that Religious Uses and non-religious assemblies and institutions are treated equally under the terms of the Revised Code of the Consolidated City and County, the City-County Council of the City of Indianapolis and Marion County, Indiana has determined that it is necessary to add Religious Use as a permitted use in the commercial zoning district and to make further amendments to the Revised Code of the Consolidated City and County consistent therewith; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Subsection (a) of Section 732-201 of the "Revised Code of the Consolidated City and County," regarding permitted uses in a C-1 District (zoning), hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(a) *Permitted C-1 uses.* Permitted uses in the C-1 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-1 District development standards of subsection (b) of this section. The following uses shall be permitted in the C-1 District:

- (1) Assisted-living facility.
- (2) Auditorium, assembly hall.
- (3) Community, multiservice, neighborhood or senior citizens' center.
- (4) Day care center (adult, child or handicapped).
- (5) Health services, (excluding hospitals, plasma centers, or substance abuse treatment facility), including the following:

Blood donor stations

Convalescent or nursing homes

Immediate care facilities

Intermediate care facilities

Medical or dental laboratories

Nursing care (skilled) facilities

Offices and clinics of:

Chiropractors

Dentists

Optometrists

Osteopathic physicians

Outpatient clinics

Physicians (MD)

Podiatrists

- (6) Membership organization or club, any type. The following organizations, however, shall be limited to offices only:

Athletic club

Automobile owners' association or club

Condominium association (except property management)

Contractor's association

Farm bureau or grange

Fraternity or sorority

Homeowner's association (except property management)

Manufacturer's institute

Tenant association (except property management)

- (7) Mortuary, funeral home.

- (8) Office use, any type including:

Business or personal service

Financial (bank, savings and loan, credit union, etc.)

Governmental

Professional

Social services (office only)

- (9) Office or studio of the following:

Radio station

Television station

- (10) Public and semi-public uses, including:

Art gallery (excluding sales)

Civic clubs

Library

Museum

Planetarium

(11) Schools/educational services, shall include only the following:

Business and secretarial

Clerical

Correspondence

Data processing

Junior college

Language

Music

Nursery

Vocational or technical

(12) Religious uses

(4213) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the primary use and accessory retail and service commercial uses as permitted below and subject to the provisions of subsection 732-201(b)(1)g.

Cafeteria (serving only employees and guests only)

Drug store/pharmacy

Florist (including florist telegraph service)

News dealers and newsstands

Office supplies

Optical goods

Photocopying and duplicating services

Restaurant (serving office employees and guests only)

(4314) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of subsection 732-214(e).

SECTION 2. Subsection (b) of Section 732-217 of the "Revised Code of the Consolidated City and County," regarding definitions of words used in Chapter 732, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(b) *Definitions.* The words in the text or illustrations of this chapter shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

**Access.** The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

**Access drive.** That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property (see Diagram A).

**Accessory.** A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

**Administrator.** Administrator of the division of planning of the department of metropolitan development or his/her appointed representative.

**Adult bookstore.** An establishment having at least twenty-five (25) percent of its:

- (1) Retail floor space used for the display of adult products; or
- (2) Stock in trade consisting of adult products; or
- (3) Weekly revenue derived from adult products.

For purposes of this definition, the phrase adult products means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. For purposes of this definition, the phrase adult products also means a device designed or marketed as useful primarily for the stimulation of human genital organs, or for sadomasochistic use or abuse. Such devices shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse.

**Adult cabaret.** A nightclub, bar, theatre, restaurant or similar establishment that regularly features:

- (1) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas;
- (2) Films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) Persons who appear in a state of nudity or semi-nudity as defined in Chapter 807, Article I of this Code; or
- (4) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customer.

**Adult drive-in theatre.** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

**Adult entertainment business.** An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult motion picture arcade, adult cabaret, adult drive-in theatre, adult live entertainment arcade or adult services establishment.

*Adult live entertainment arcade.* Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure to specified anatomical areas.

*Adult mini motion picture theatre.* An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult motel.* A hotel, motel or similar establishment offering public accommodations for any form of consideration that offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours, and that provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motion picture arcade.* Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theatre.* An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult service establishment.* Any building, premises, structure or other facility, or part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

*Alley.* Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

*Alteration.* Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

*Amusement arcade.* A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

*Amusement machine.* An amusement device operated by means of the insertion of a coin, token, or similar object for the purpose of entertainment, amusement or skill and for the playing of which a fee is charged. "Amusement machine" does not include vending machines which do not incorporate gaming amusement or skill features, nor does the term include any coin-operated mechanical musical device.

*Amusement/recreational establishment, commercial.* See (indoor/outdoor) commercial amusement/recreational establishment.

**Assisted living facility.** A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - For purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - For purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

**Attached multifamily dwelling.** See dwelling, attached multifamily.

**Automated teller machine (ATM).** A mechanized apparatus which performs limited banking functions for customers such as deposits, withdrawals and transfers of funds upon insertion of a customer identification card, password, or similar device.

**Awning.** A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or the like.

**Basement.** That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half (1/2) or more of its interior vertical height clearance below grade level.

**Bed and breakfast.** The commercial leasing of no more than four (4) bedrooms(s) for no more than eight (8) guest(s) within a private dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee.

**Boardinghouse.** A building, other than hotels, motels, bed and breakfasts or multifamily dwelling, containing accommodation facilities in common for up to ten (10) persons where lodging, typically with meals, reserved solely for the occupants thereof, is provided for a fee.

**Buildable area.** The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met (see Diagram B).

**Building.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

**Building area.** The total ground area, within the lot or project, covered by the primary structure plus garages, carports and other accessory buildings. The ground area of a structure, or portion thereof, not provided with surrounding exterior walls shall be the area immediately under the vertical projection of the roof or the floor above (see Diagram B).

**Canopy.** A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

**Collector street.** See street, collector.

**Commercial garage.** See garage, commercial.

**Commission.** The Metropolitan Development Commission of Marion County, Indiana.

**Commitment.** An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

*Community center.* A building used for recreational, social, educational and cultural activities of a neighborhood or community.

*Comprehensive plan.* The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

*Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

*Convenience market.* A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, household items, lottery tickets and food items prepared on the premises, including reheating, which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers of the establishment on a self-service basis.

*Corner lot.* See lot, corner.

*Covenant.* A legal agreement concerning the use of land.

*Crown of the street.* The highest point, most often at the centerline, of a street cross-section of the street pavement between the existing curb lines.

*Cul-de-sac.* See street, cul-de-sac.

*Curb cut.* The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street (see Diagram A).

*Curb line.* A line located on either edge of the pavement, but within the right-of-way line (see Diagram A).

*Customer service window.* Opening on the exterior of a building through which customers receive goods or services in exchange for monetary compensation.

*Dance studio.* An establishment primarily engaged in operating and providing training, instruction, and demonstrations or recitals in various forms of dance to individuals or groups.

*Day care center.* Any institution or place operated for the purpose of providing:

- (1) Care;
- (2) Maintenance; or
- (3) Supervision and instruction;

to children who are less than six (6) years old and are separated from their parent(s), guardian, or custodian for more than four (4) hours but less than twenty-four (24) hours a day for ten (10) or more consecutive workdays, where tuition, fees or other forms of compensation are charged, and which is licensed by, and approved to operate as a day care center in accordance with the requirements of the State of Indiana. This definition shall not include a "day care home" of children.

*Day care home.* Defined in IC 12-3-2-3 as follows: A residential structure where an individual provides child care:

- (1) For compensation;
- (2) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding holidays; and
- (3) To more than five (5) children at a time who:

- a. Are less than eleven (11) years of age; and
- b. Are not attended by:
  1. A parent;
  2. A stepparent;
  3. A guardian;
  4. A custodian; or
  5. A relative who is at least eighteen (18) years of age.

*Day nursery.* Same as day care center.

*Display, outdoor.* An outdoor area where merchandise is displayed for sale, and which is freely accessible to the public except that automobile retail sales areas shall be considered outdoor display areas whether freely accessible or not. Outdoor display may be the principal use of a lot or may be accessory to a commercial use (as allowed by the zoning district) when the sales transactions occur within a structure.

*Dripline.* The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

*Drive-in.* A business establishment so developed that its retail or service character is dependant on providing a driveway approach or parking spaces for motor vehicles to service patrons while in or on the motor vehicle, rather than within a building.

*Drive-through.* A feature of an establishment which encourages or permits customers to receive services or obtain goods while remaining in or on a motor vehicle.

*Drive-through customer window.* See customer service window.

*Drive-through restaurant.* See restaurant, drive-through.

*Driveway.* Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (see Diagram A).

*Dry cleaning plant.* A facility in which the cleaning of garments, fabrics, draperies, etc., is performed with a liquid other than water. The plant is generally not visited by individual customers, but rather by individual dry cleaning dropoff establishments.

*Dwelling, attached multifamily.* A building or buildings for residential purposes with three (3) or more dwelling units, having common or party wall or walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

*Dwelling unit.* One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

*Educational services.* An establishment providing academic or technical instruction or primarily engaged in offering educational courses and services, including libraries, student exchange programs and curriculum development.



*Enlargement (pertaining to adult entertainment only).* An increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

*Erect.* Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

*Establishing an adult entertainment business.* Shall mean and include any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;
- (3) The relocation of any such business.

*Excavation.* The breaking of ground, except common household gardening, ground care and agricultural activity.

*Family.* One (1) or more human beings related by blood, marriage, adoption, or guardianship together with incidental domestic servants and temporary noncompensating guests; or not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

*Fast food restaurant.* See restaurant, fast food.

*Floor area, gross.* The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) abutting buildings.

*Front lot line.* See lot line, front.

*Front yard.* See yard, front.

*Frontage (street frontage).* The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

*Garage, commercial.* Any building designed and intended for the storage or repair of motor vehicles for compensation.

*Gasoline service station.* Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use minor automotive repairs; the sale and installation of lubricants, tires, batteries; car washes; and similar accessory uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers or employees.

*Grade, established street.* The crown elevation of a street pavement level abutting a property (as fixed by the Department of Public Works).

*Grade level (adjacent ground elevation).* The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from such walls, between such walls and a line ten (10) feet away from and paralleling such walls.

*Grocery store.* A commercial establishment, commonly known as a supermarket, food or grocery store, primarily engaged in the retail sale of canned foods and dry goods, such as tea, coffee, spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry.

*Gross floor area.* See floor area, gross.

*Gross floor area, total.* The sum of the gross horizontal areas of all floors below the roof and within the exterior faces of the exterior walls of principal and accessory buildings or the centerlines of walls separating two (2) abutting buildings.

*Gross leasable area.* The total floor area which is designed for the tenant's occupancy and exclusive use.

*Ground cover.* Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, and the like.

*Ground floor.* That story which contains finished floor area closest to, but not below, grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

*Handicap ramp.* See pedestrian ramp.

*Hardsurfaced.* Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

*Hardware store.* A commercial establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

*Health care facility.* A facility or institution, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition.

*Health services.* Medical, surgical or other similar services provided to individuals, including services provided by physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care facilities or blood banks.

*Hedge.* A row or rows of closely planted shrubs, bushes, etc., creating a vegetative barrier.

*Height, building.* The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when such sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when such sidewalk or ground surface is more than ten (10) feet above the lowest grade.

*Home improvement store/center.* A facility for the sale of home, lawn, and garden materials and supplies, brick, lumber, hardware items and other similar materials.

*Hotel.* Any building or group of buildings containing five (5) or more rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the traveling public.

*Indoor commercial amusement/recreation establishment.* A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as bowling alleys, billiard parlors, or arcades.

*Inoperable vehicle means:*

- (1) A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which there has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or
- (2) Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

*Integrated center.* An area of development (commercial, industrial or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

- (1) A number of individual, nonrelated and separately operated uses in one (1) building sharing common-site facilities; or
- (2) One (1) or more buildings containing nonrelated and separately operated uses occupying a common-site, which utilize one (1) or a combination of common-site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or
- (3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

*Interior access drive.* A minor, private street providing access within the boundaries of a project beginning at the required setback line (see Diagram A).

*Interior access driveway.* Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels (see Diagram A).

*Job printer.* A facility for the commercial reproduction, cutting, printing, or binding of written materials, drawings, or labels on a bulk basis using lithography, offset printing, blueprinting and similar methods.

*Landscaping.* Any combination of living plants, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion and drainage control and wind protection.

*Landscaping, interior.* Landscaping areas consisting of a combination of trees, shrubs and ground cover located in the interior of vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define areas for pedestrians and vehicular circulation.

*Legally established nonconforming building or structure.* Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

*Legally established nonconforming use.* Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

*Liquor store, package.* A facility principally for the retail sale of alcoholic beverages for off-premises consumption.

*Loading area.* An off-street area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility.

**Loading space.** An off-street space or berth used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

**Local street.** See street, local.

**Lot.** A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record; or
- (3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purposes of this definition, ownership includes:

- (1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;
- (2) A contract vendee;
- (3) A long-term lessee (but only if the lease is recorded among the records of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (see Diagram C).

**Lot area.** The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

**Lot, corner.** A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram C).

**Lot, through.** A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram C).

**Lot line.** The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

**Lot line, front.** The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram B).

**Lot line, rear.** A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

**Lot line, side.** Any lot line not designated as a front or rear lot line.

**Lot of record.** A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the recorder of Marion County, Indiana.

**Main floor area.** The area of a horizontal plane, fully bound by the exterior walls of the primary building or structure, of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

*Marginal access street.* See street, marginal access.

*Mini-warehouses.* A building or group of buildings containing one (1) or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds six hundred (600) square feet in area.

*Minor emergency repairs.* Those maintenance repairs necessitating an immediate solution yet not posing an immediate life-safety hazard, nor altering the existing character of the structure (see alteration).

*Motel.* Any building or group of buildings containing five (5) or more rooms with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

*Mulch.* A protective covering of organic substances placed around plants to control weeds and prevent evaporation of moisture or freezing. Plastic, loose gravel, stones or rocks shall not be considered as mulch.

*Neighborhood recycling collection point.* A site where individuals bring household recycling materials to either drop off without compensation, or to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the material takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as "igloos," reverse vending machines, trailers, or similar structures.

*Night club.* An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live and recorded performances. The establishment may or may not engage in the preparation and retail sale of alcoholic beverages for consumption on the premises. For the purposes of this chapter, an establishment of a similar nature which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be construed to be a night club, but rather a commercial amusement/recreation establishment.

*Nonconforming adult entertainment business.* Shall mean any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of General Ordinance 44, 1984, adopted on July 9, 1984, or amendments thereto, which does not conform after the passage of that ordinance or amendments thereto with the regulations of this chapter.

*Nursery, day.* See day care center.

*Off-street.* A location completely within the boundaries of the lot, and completely off of public or private rights-of-way or alleys or any interior surface access easement for ingress and egress.

*On-center.* Distance at grade from the center of one (1) plant to the center of the next plant.

*Outdoor commercial amusement/recreation establishment.* An open area offering entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as golf courses, swimming pools, and baseball/softball fields.

*Outdoor display.* See display, outdoor.

*Outdoor storage.* See storage, outdoor.

*Parking area.* An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space (see Diagram A).

*Parking bay.* The parking module consisting of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces (see Diagram A).

*Parking space.* An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle (see Diagram A).

*Pavement.* A layer of concrete, asphalt or coated macadam used on street, parking area, sidewalk, or airport surfacing.

*Pedestrian ramp.* An inclined access opening along the curb line at which point pedestrians, unassisted or assisted by a wheelchair, walker or the like, may enter or leave the street; or an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or the like, access from the ground to an elevated surface.

*Permitted use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

*Personal service.* Services provided involving the care of a person or his/her apparel.

*Personal service establishment.* A commercial establishment primarily engaged in providing services generally to individuals involving the care of a person or his/her apparel, such as laundries, photographic portrait studios, barber and beauty shops, shoe repair, tailor, travel bureaus or similar facilities.

*Physically handicapped.* An individual who has a physical impairment including impaired sensory, manual or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

*Plat.* An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

*Primary building.* The building in which the permitted primary use of the lot is conducted.

*Printer, job.* See job printer.

*Proposed right-of-way.* See right-of-way, proposed.

*Protected district.* Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. For the purposes of this article, a protected district shall include any dwelling district, hospital district, parks district, university quarter district, SU-1 (church) District or SU-2 (school) District.

*Rear yard.* See yard, rear.

*Reconstruction (pertaining to adult entertainment only).* The rebuilding or restoration of any nonconforming adult entertainment business which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God, if the damage or destruction exceeds two-thirds ( 2/3) of the value of the structure or the facilities affected.

*Recreation facility.* A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

*Recycling container.* Receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to, glass, plastic, metal and paper.

*Recycling station.* A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is

shipped out. These businesses usually occupy existing freestanding sites, such as former gasoline stations, or occupy parts of an integrated center parking lot.

*Religious use.* A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

*Restaurant, drive-in or drive-through.* Any restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by, patrons in or on motor vehicles parking or stopped on the premises.

*Restaurant, family.* An establishment where food and drink are prepared, served and consumed primarily within the principal building to the general public. The establishment may have a separate area, or lounge, where alcoholic beverages are served without full food service, provided the area is accessory to the primary use in: 1) square feet; or 2) sales.

*Restaurant, fast food.* An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

*Resumption (pertaining to adult entertainment only).* Shall mean the reuse or reoccupation of a nonconforming adult entertainment business which has been discontinued for a period of six (6) or more consecutive months.

*Retail trade.* Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The establishment typically buys goods for resale to the public.

*Required yard.* See yard, required.

*Right-of-way.* Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, private.* Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, proposed.* Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

*Right-of-way, public.* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Roof line.* The uppermost edge of the water-carrying surface of a building or structure.

*Satellite dish antenna.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or electromagnetic waves between terrestrially or orbitally based devices.

*Screening.* A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

*Seasonal retail sales use, temporary.* A temporary use established for a fixed period of time, for the retail sale of seasonal products, including, but not limited to, such items as food, Christmas trees, and live plants. This use may or may not involve the construction or alteration of any permanent building or structure.

*Semi-public use.* See use, semi-public.

*Service bay.* Individual area within an automobile repair or service facility where services, including but not limited to car washes, oil changes and repairs, are performed on a motor vehicle.

*Services involving specified sexual activity or display of specified anatomical areas.* Any combination of two (2) or more of the following activities:

- (1) The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representation which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) The operation of coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;
- (4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;
- (5) The operation of a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, as these terms are defined in Chapter 911 of this Code.

*Setback.* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line (see Diagram B).

*Setback line.* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line (see Diagram B).

*Shopping center.* A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access and often with protection from the elements.

*Shrub.* A woody plant of relatively low height (not exceeding ten (10) to twelve (12) feet in height), branching from the base.

*Side yard.* See yard, side.

*Sidewalk.* A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

*Sign.* Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.

*Site plan.* The development plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by ordinance,



but not limited to: Topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

*Specified anatomical areas.* Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities.* Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any of the activities set forth in (1) through (6) above.

*Stacking space, off-street.* An area, separate from or in addition to, the required parking area, reserved for the temporary retention of vehicles which are queuing up or utilizing the services of a drive-through service unit.

*Storage, outdoor.* An outdoor area used for the long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles or junk.

*Storage area.* An area designated, designed and intended for the purpose of reserving property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

*Storage room.* An enclosed area integrated into and sharing a common or party wall or walls within a primary building, while designed and intended for the purpose of reserving property for a future use.

*Story.* That part of a building, with an open height of not less than seven (7) feet six (6) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

*Street, collector.* A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between *local streets* and arterials while allowing direct access to abutting property(ies) (see Diagram D).

*Street, cul-de-sac.* A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram D).

*Street, expressway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, freeway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, local.* A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram D).

*Street, marginal access.* A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram D).

*Street, parkway.* A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and the Thoroughfare Plan.

*Street, primary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, private.* A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

*Street, public.* A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

*Street, secondary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Structural alteration.* Shall mean any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

*Structure.* A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

*Subdivision.* The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

*Substance abuse treatment facility.* A facility, the primary function of which is to administer or dispense a schedule II controlled substance (as listed under IC 35-48-2-6(b) or (c)) to a narcotic addict for maintenance or detoxification treatment.

*Tavern.* An establishment used primarily for the serving of liquor by the drink to the general public, but where minors cannot be within the use, and where food or packaged liquors may be served or sold only as accessory to the primary use.

*Temporary seasonal retail sales use.* See seasonal use, temporary.

*Temporary use.* An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

*Theatre, drive-in.* An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

*Theatre, motion picture.* A building or part of a building which is devoted primarily to showing motion pictures to the public for a fee.

*Theatre, legitimate.* A building or structure or part thereof which is devoted primarily for the presentation of live dance, dramatic, musical or comedic performances.

*Thoroughfare.* A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

*Thoroughfare Plan.* The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

*Through lot.* See lot, through.

*Total gross floor area.* See gross floor area, total.

*Transitional yard.* See yard, transitional.

*Trash container.* Receptacle intended for the disposal, collection or temporary storage of unsorted waste products or refuse.

*Trash enclosure.* An accessory structure enclosed on at least three (3) sides that is designed to screen and protect waste receptacles from view and to prevent waste debris from dispersing outside the enclosure.

*Tree survey.* An inventory of all trees on a lot or project before construction, alteration or excavation activity occurs identifying species, location, caliper, and dripline of trees. In the case of dense tree stands that exceed six hundred (600) square feet in area and seventy-five (75) percent branch coverage of the ground surface, the location of the outer boundary of the tree stands' dripline with a listing of the predominant species and caliper may be substituted for a detailed inventory.

*Use, semi-public.* A service offered by a not-for-profit organization to the general public for either no charge or a nominal fee.

*Variety store.* Commercial establishments primarily engaged in the retail sale of a variety of merchandise in the low price range. Sales usually are made on a cash-and-carry basis, with the open-selling method of display and customer selection of merchandise. These stores generally do not carry a complete line of merchandise, are not departmentalized, do not carry their own charge service, and generally do not deliver merchandise.

*Vending machine.* An automatic device which dispenses goods or services to the customer upon receipt of monetary compensation.

*Walkway.* A hardsurfaced walk or raised path for pedestrian traffic.

*Yard, front.* An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, rear.* An open space unobstructed to the sky, extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, required.* That portion of any yard abutting a lot line having a minimum depth as area required by the particular zoning district in which it is located.

*Yard, side.* An open space unobstructed to the sky, extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first (see Diagram B).

*Yard, transitional required.* That portion of any yard abutting a protected district having a minimum depth as required by the particular zoning district in which it is located and acting as a buffer between two (2) or more land uses of different intensity (see Diagram B).

SECTION 3. Subsection (b) of Section 735-751 of the "Revised Code of the Consolidated City and County," regarding definitions of words used in Article VII of Chapter 735, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(b) *Definitions.*

*Administrator.* Administrator of the division of planning or his/her appointed representative. Where the 1400 series of IC-36-7-4 gives authority to perform a function to Commission staff, the Administrator, or his/her appointed representative, shall be deemed to be Commission staff.

*Assisted-living facility.* A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - for purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - for purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

*Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

*Commission.* The Metropolitan Development Commission of Marion County, Indiana.

*Commitment.* An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

*Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

*Gross floor area.* The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of a wall separating two (2) abutting buildings.

*Hardsurfaced.* Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

*Height, building.* The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when the sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface is more than ten (10) feet above the lowest grade.

*Legally established nonconforming building or structure.* Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

*Legally established nonconforming use.* Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or grant of a variance of the zoning ordinance but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

*Lot line.* The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

*Lot line, front.* The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance to the primary structure shall be considered the front lot line, or so declared by the Administrator.

*Lot line, rear.* A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a rear lot line.

*Lot line, side.* Any lot line not designated as a front or rear lot line.

*Open dumping.* A site where refuse is dumped, which due to lack of control may create a breeding place for flies and rats, may catch fire or produce air pollution.

*Permitted use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

*Religious use.* A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

*Sanitary landfill.* A method of disposing of refuse on land without creating nuisances or hazards to public health, safety, or welfare by utilizing principals of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, covering it with a layer of suitable cover at the conclusion of each day's operation or at more frequent intervals as necessary.

*Setback.* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line.

*Setback line.* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line.

*Site plan.* The plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by the Improvement Location Permit ordinance, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

**Structure.** A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

**Thoroughfare.** The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC-36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

**Yard, front.** An open space unobstructed to the sky, extended fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

**Yard, rear.** An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

**Yard, side.** An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first.

SECTION 4. Subsection (k) of Section 732-211 of the "Revised Code of the Consolidated City and County," including Table 2.10-A and regarding amount of parking spaces required, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(k) *Amount of parking spaces required.*

- (1) Off-street parking spaces shall be provided and maintained for uses in the commercial district in accordance with the minimum requirement set forth in Table 2.10-A.
- (2) When a computation of required parking spaces results in a fraction of one-half ( $\frac{1}{2}$ ) or greater, the number of required parking spaces shall be rounded up to the next whole number.

**TABLE 2.10-A  
MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED BY USE**

<i>Use</i>	<i>Minimum parking requirement</i>
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
b. Outdoor	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each four hundred (400) square feet of site area accessible to the public, exclusive of the parking area.
2. Assisted-living facility	Total car ratio (TCR) - assisted-living facilities: 0.500. In addition, one (1) visitor parking space shall be provided per six (6) dwelling units; plus one (1) parking space per employee on duty during the peak work shift.

3. Auto, truck or motorcycle sales or repair:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus one (1) space for each two hundred (200) square feet of interior sales and display area, plus one (1) space for each seven thousand (7,000) square feet of outdoor display area.
4. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. (Also subject to the drive-through requirements of section 732-213).
b. Drive-through facility only	One (1) parking space for each employee per largest work shift, plus a minimum of three (3) additional parking spaces. (Also subject to the drive-through requirements of section 732-213).
c. Walk-in facility only	One (1) parking space for each two hundred (200) square feet of gross floor area.
5. Bowling alleys:	a. Four (4) parking spaces for each alley/lane. b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley).
76. Community centers, museums, civic clubs, philanthropic and eleemosynary institutions:	One (1) parking space for each four hundred (400) square feet of gross floor area.
87. Convenience market	One (1) parking space for each two hundred eighty-five (285) square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking.
98. Day nurseries, day care centers, kindergartens, nursery schools:	One (1) parking space for each employee per largest work shift, plus one (1) parking space for each five hundred (500) square feet of gross floor area.
109. Dwelling unit	One-and-one-half (1.5) parking spaces for each dwelling unit.
1410. Fire station:	One (1) parking space for each two (2) employees on the premises during the largest work shift, plus a minimum of three (3) additional parking spaces.
1421. Furniture/floor or wall covering store	One (1) parking space for each four hundred (400) square feet of gross floor area.
14312. Gasoline service stations, tire and auto service center, other auto service functions:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus three (3) customer spaces, plus one (1) space for each three hundred (300) square feet of gross floor area devoted to retail sales.
14413. Gasoline service station/convenience market	Same as (8) convenience market.
14514. Grocery store/supermarket	One (1) parking space for each one hundred fifty (150) square feet of gross floor area.
14615. Hardware/paint/home improvement store	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each one thousand (1,000) square feet of the facility devoted to outside operations or storage, exclusive of the parking area.

4716. Health spa/sports club	<p>a. One (1) parking space for each two hundred (200) square feet of gross floor area.</p> <p>b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club).</p>
4817. Hotels, motels:	<p>a. One (1) parking space for each rental sleeping unit.</p> <p>b. If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel).</p>
4918. Library	One (1) parking space for each four hundred (400) square feet of gross floor area.
2019. Medical, dental, optometrists clinics/offices:	One (1) parking space for each two hundred (200) square feet of gross floor area.
2420. Mini-warehouses	Three (3) parking spaces for each office, plus one (1) parking space per each employee based on the largest work shift, plus one (1) parking space per resident/manager, plus one (1) parking space for each thirty (30) storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces.
2221. Miniature golf	Four (4) parking spaces for each golf hole, plus one (1) parking space per each employee based on the largest work shift, plus one (1) space per each one hundred (100) square feet devoted to accessory retail or amusement establishments.
2322. Mortuary, funeral service, crematories	One (1) parking space for each fifty (50) square feet of floor area in parlors and assembly rooms.
2423. Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation centers	One (1) parking space for each three (3) patient beds, plus one (1) parking space for each two (2) employees and each two (2) staff doctors on the premises during the largest work shift.
2524. Office commercial use, general: (To include, but not be limited to business, professional office, post office, office park, research center)	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross floor area.
2625. Racquetball/tennis courts/club facilities	One (1) parking space per employee, plus four (4) parking spaces per game court, plus one (1) parking space for each two hundred (200) square feet of the remaining floor area in the building devoted to retail activities.



<p><u>26. Churches/synagogues, Religious uses, Auditoriums, assembly halls, recital halls:</u></p>	<p>One (1) parking space for each four (4) seats at the maximum calculated capacity <u>of the largest assembly room.</u>  <u>Provided, however:</u>  <u>(1) In no case shall less than five (5) parking spaces be provided; and</u>  <u>(2) Residential uses shall provide parking spaces as required for residential use by this section and such calculation shall be separate from the parking calculation for the largest assembly room; and</u>  <u>(3) Commercial uses that cumulatively exceed the square footage of the largest assembly room shall provide parking spaces as required for the individual commercial uses by this section and such calculation shall be separate from the parking calculation for the largest assembly room.</u></p>
<p>27. Restaurant:</p>	
<p>a. Family</p>	<p>One (1) parking space per employee per largest work shift plus one (1) parking space for each four (4) customer seats.</p>
<p>b. Fast food, with or without drive-through</p>	<p>One (1) parking space per employee per largest work shift plus one (1) parking space for each three (3) customer seats. Provided, however, in no case shall any such use provide less than five (5) parking spaces (also subject to the drive-through requirements of section 732-213).</p>
<p>c. Fast food, drive-through only (no seating)</p>	<p>One (1) parking space per employee per largest work shift plus a minimum of three (3) additional parking spaces (also subject to the drive-through requirements of section 732-213).</p>
<p>28. Taverns and night clubs</p>	<p>One (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross floor area.</p>
<p>29. Retail or service commercial uses - individual, freestanding uses: including but not limited to: Bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops</p>	<p>Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized.          Provided, however, that in no case shall any individual use provide less than five (5) parking spaces.</p>

<p>30. Retail or service commercial uses - integrated centers (as defined in section 732-217)</p>	<p>a. If the total gross leasable area of an integrated center is less than four hundred thousand (400,000) square feet, four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required;</p> <p>b. If the total gross leasable area of an integrated center is greater than four hundred thousand (400,000) square feet, but less than six hundred thousand (600,000) square feet, four and one-half (4.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>c. If the total gross leasable area of an integrated center is greater than six hundred thousand (600,000) square feet, five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>Provided, however:</p> <p>(1) In no case shall any individual use provide less than five (5) parking spaces; and</p> <p>(2) The following individual uses: grocery store/supermarket; theatres - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and such calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center.</p>
<p>31. Roller/ice skating rink</p>	<p>One (1) parking space for each two hundred (200) square feet of gross floor area in the building.</p>
<p>32. Schools: business, technical, trade, and vocational</p>	<p>One (1) parking space for each one hundred (100) square feet of gross floor area in the building, or one (1) parking space per each twenty-five (25) square feet of classrooms, whichever provides the greatest number of spaces.</p>
<p>33. Theatres: motion picture or legitimate</p>	<p>One (1) parking space for each three (3) seats.</p>
<p>34. All uses permitted in the C-ID Commercial-Industrial District:</p>	<p>One (1) parking space for each two (2) employees per largest work shift, plus five (5) customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved.</p>
<p>35. Uses not specified</p>	<p>For any commercial district use not specified above, specific requirements shall be determined by the Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.</p>

SECTION 5. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 6. This ordinance shall be in effect from and after its passage by the Council and compliance with Indiana Code Section 36-3-4-14.

**ATTEST:**

**Melissa Thompson**  
Clerk, City-County Council

**Bob Cockrum**  
President, City-County Council

**Melissa Thompson**  
Clerk, City-County Council

**Gregory A. Ballard, Mayor**

STATE OF INDIANA, MARION COUNTY)

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 20<sup>th</sup> day of February, 2008.

**Melissa Thompson**  
Clerk, City-County Council

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